

## SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

**SUBJECT:** Termination of Interlocal Agreement between Seminole County and East Central Florida Regional Planning Council (ECFRPC) for the Installation and Maintenance Responsibilities for the Central Florida Geographic Information System

**DEPARTMENT:** Information Technology Services

**DIVISION:** Enterprise Software

**AUTHORIZED BY:** Robert Beach

**CONTACT:** Paula Irby

**EXT:** 1149

**MOTION/RECOMMENDATION:**  
Informational Item Only. No Action Required.

County-wide

Shawn Newberry/Melvin Barnes

**BACKGROUND:**

On December 4, 2008, after a successful working relationship since the inception of the 2002 Agreement, the East Central Florida Regional Planning Council (ECFRPC) gave written notice of intent to terminate the Agreement for convenience, effective January 30, 2009, as they were transitioning to a new service. Under the amended Agreement, either party had the right to terminate for convenience upon thirty days written notice to the other party. For future budgeting decisions, IT Services Department subsequently notified Fiscal Services that the annual revenue in the amount of \$3,000 would no longer be forthcoming.

Per the Agreement, the GIS server was removed from County property as it was the property of ECFRPC. This implemented the cessation of important, long standing County responsibilities for domiciling, security and maintenance of that valuable public resource.

**STAFF RECOMMENDATION:**

No formal action is required by the BCC. The termination is self executing.

**ATTACHMENTS:**

1. Notify Letter
2. Agreement
3. Agreement

**Additionally Reviewed By:**

- ☒ County Attorney Review ( Arnold Schneider )
- ☒ Revenue Review ( Cecilia Monti, Lisa Spriggs )



# East Central Florida Regional Planning Council

631 North Wymore Road, Suite 100 • Maitland, FL 32751  
Phone 407.623.1075 • Fax 407.623.1084 • [www.ecfprc.org](http://www.ecfprc.org)

Philip Laurien, AICP  
Executive Director

December 4, 2008

Ms. Linda Moore  
Information Systems Manager  
Seminole County  
1101 East First Street  
Sanford, FL 32771

Re: Interlocal Agreement between Seminole County and the ECFPRC  
For the Installation and Maintenance Responsibilities for the  
Central Florida Geographic Information System

Dear Ms. Moore:

We appreciate the successful working relationship we have enjoyed since the inception of this agreement in 2002. However, our needs have changed and as we prepare for a move in Early 2009, we have decided we will relocate our IT Server support as well.

This letter therefore serves as official notification that the East Central Florida Regional Planning Council will not be renewing the above-referenced contract with Seminole County for web hosting services. We will be transitioning to a new service beginning in January and will therefore terminate the contract effective January 30, 2009.

Thank you, again, for six years of service to the ECFPRC.

Sincerely,

Phil Laurien  
Executive Director

cc: Melvin Barnes

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## Executive Committee

**Chair**  
Malcolm McLouth  
Governor's Appointee  
Brevard County

**Vice Chair**  
Mary Martin  
Vice Mayor of Port Orange  
Volusia County League of Cities

**Treasurer**  
Cheryl Grieb  
City Commissioner  
City of Kissimmee

**Secretary**  
Atlee Mercer  
Property Appraiser  
Osceola County

**Member At Large**  
Elaine Renick  
Commissioner  
Lake County

*Serving Brevard, Lake, Orange, Osceola, Seminole, and Volusia Counties.*

**INTERLOCAL AGREEMENT BETWEEN SEMINOLE COUNTY, FLORIDA  
AND THE EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL  
RELATIVE TO INSTALLATION AND MAINTENANCE RESPONSIBILITIES  
FOR THE CENTRAL FLORIDA GEOGRAPHIC INFORMATION SYSTEM**

**THIS COOPERATIVE INTERLOCAL AGREEMENT** hereinafter referred to as the "Agreement" is made and executed this 6 day of May, 2002, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida, 32771, hereinafter referred to as the "COUNTY," and **THE EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL**, a regional planning council created pursuant to Chapter 186, Florida Statutes, whose address is 631 North Wymore Road, Suite 100, Maitland, Florida, 32751, hereinafter referred to as "ECFRPC" for the purpose of facilitating the implementation of the Central Florida Geographic Information System initiative.

**W I T N E S S E T H:**

**WHEREAS**, the COUNTY and ECFRPC are mutually desirous of entering into a cooperative venture to help implement the data clearinghouse portion of the so called Central Florida Geographic Information System ("CFGIS") initiative, a regional geographic information system effort encompassing ten (10) counties in Central Florida; and

**WHEREAS**, the COUNTY and ECFRPC, hereinafter sometimes referred to collectively as the "Parties" have, after due consideration of the facts and circumstances of the necessary hardware/software configurations and the economic factors, funding and the logistics inherent to the CFGIS data clearinghouse venture have determined that the terms and covenants of this Agreement represent the most

practical, economic and beneficial means to accomplish this portion of the CFGIS program; and

**WHEREAS**, the CFGIS data server as installed and maintained as hereinafter described will be more advantageous to both Parties hereto, as well as the other local government members of ECFRPC and the general public within the areas served by both Parties than would be possible without this Agreement; and

**WHEREAS**, the COUNTY has sufficient capacity within its fiber optic communications/internet access network systems to better accommodate the CFGIS data server than does ECFRPC with its current or foreseeable resources; and

**WHEREAS**, the Parties have both determined that CFGIS is a true public purpose and will further the public interest, consistent with all applicable provisions of the Florida Statutes, including, but not limited to Chapters, 125, 163, 186, the COUNTY's Charter and the objectives for which ECFRPC was created; and

**WHEREAS**, both Parties hereby represent, each to the other, that they are legally empowered to enter into this Agreement and have done all steps necessary and incidental to the execution of this Agreement;

**NOW THEREFORE**, in consideration of the mutual covenants, terms and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

**SECTION 1. RECITALS.** The foregoing recitations are true, correct, mutually understood, agreed upon and form an integral part of this Agreement.

**SECTION 2. RESPONSIBILITIES AND DUTIES OF ECFRPC.** ECFRPC agrees that it will have sole responsibility to accomplish the following tasks:

(a) Deliver to the custody of the COUNTY the CFGIS server which shall be a Dell PowerEdge 6450, 700 MHz model with four (4) hard drives of a 36 GB RAID 5 SCSI to include a 20/40 GB DLT 4000 backup unit and a fifteen inch (15") panel monitor, hereinafter called "Server", all of which shall be capable of running on a Windows 2000 Server edition. The serial number of said Server is 8GN1511.

(b) The above described Server shall be the property of either ECFRPC as fee simple owner or, alternatively, ECFRPC shall be the Lessee under a separate agreement between the ECFRPC and an outside vendor not a party to this Agreement. The COUNTY shall have no property interest in said Server, whatsoever.

(c) If such unit is leased, ECFRPC hereby represents to COUNTY that it has the lessor's permission to place the Server in the custody of the COUNTY.

(d) ECFRPC shall provide monthly statistical data regarding the amount of incoming and outgoing traffic on the Server so as to facilitate the COUNTY's monitoring of its use of fiber optic network resources and managing its own network capacity.

(e) ECFRPC shall be responsible for the cost of the initial and any subsequent upgrades and costs of installation of hardware or software associated with the CFGIS Server which are now required or which may prove necessary or desirable at some future date. The COUNTY shall not be responsible for any portion of such costs

whatsoever except for the incidental cost of maintaining adequate fiber optic and network capacity to operate the Server as described in Section 3(d), below.

(f) The COUNTY shall have no liability or responsibility for the content, type, amount and accuracy of information located on the CFGIS Server.

**SECTION 3. RESPONSIBILITIES AND DUTIES OF THE COUNTY.** The COUNTY shall perform all of the following tasks and duties in connection with hosting the CFGIS server:

(a) The Server shall be housed in the COUNTY's secured computer hardware facilities area located at the Seminole County Services Building, 2<sup>nd</sup> Floor, 1101 East First Street, Sanford, Florida 32771.

(b) The COUNTY shall connect the Server to its fiber optic communication network and provide a "firewall" protection system against unauthorized access, similar, and as close as practicable to the same specifications and levels of security applied to the COUNTY's own web servers. In no event shall the COUNTY be responsible for providing more expensive or expansive security measures than it provides for its own web servers.

(c) The COUNTY shall allow the ECFRPC to have remote access to the CFGIS server via use of Virtual Network Computing (VNC) remote access technology or other similar system as mutually agreed upon hereafter. The COUNTY shall at all times have the right to deny the designation, access, change or substitution of such remote access service system technology if it determines that such application poses a threat of unauthorized access, interference or damage to any of the

COUNTY's other servers and information network systems. The COUNTY shall have the right to construct and implement such "firewall" protections as it deems necessary to prevent unauthorized access to or interference with its other information systems by use of VNC or similar remote access systems.

(d) The COUNTY shall be responsible for providing routine Server administration services for the CFGIS Server which shall include rebooting in the event the electric power and/or UPS systems fail for any reason. The COUNTY shall also be responsible for performing weekly back-ups on to media supplied by ECFRPC. IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES THAT THE COUNTY SHALL HAVE NO OTHER MAINTENANCE OR OPERATIONAL RESPONSIBILITIES OTHER THAN THOSE ENUMERATED IN THIS SECTION AND SECTION 12.

(e) The COUNTY shall exercise ordinary care and diligence to properly connect and administer the Server and shall be responsible for maintaining adequate fiber-optic network capacity for the proper function of the CFGIS system during the term of this Agreement.

(f) The COUNTY shall make reasonable accommodations to allow supervised access by ECFRPC authorized CFGIS personnel to the area where the Server is housed during normal business hours when technical and operational requirements of the Server demand such access.

**SECTION 4. FEES, DELINQUENCIES, DEFAULT AND REMEDIES.** ECFRPC shall pay the COUNTY the monthly sum of TWO HUNDRED FIFTY and NO/100 DOLLARS (\$250.00) during the term of this Agreement. Such amount shall be payable in advance on an annual basis, commencing on the execution date of this Agreement. The COUNTY shall timely invoice

ECFRPC on the first (1<sup>st</sup>) day of the month marking the beginning of each annual period and payment shall be due by no later than the twenty first (21<sup>st</sup>) day thereafter. Thereafter, late payments shall bear interest at the highest rate allowed by law until paid.

Nonpayment of invoiced amounts for longer than thirty (30) days shall be deemed an event of default under this Agreement. In the event of such default, the COUNTY reserves the right to disconnect the CFGIS Server, to cease providing any of the services described in Section 3 of this Agreement and, if such delinquency continues for longer than ninety (90) days, to terminate this Agreement. Failure of the COUNTY to exercise its rights in a particular event of default shall not be construed as a waiver of the COUNTY's right to exercise such option in any subsequent event of default.

Failure of the COUNTY to provide the enumerated services for ECFRPC for reasons not beyond its control shall be grounds for the nonpayment of the fees then owed by ECFRPC for the period such services were not rendered. Continued failure by the COUNTY to install, house and maintain the Server for reasons not beyond its control for longer than thirty (30) days shall be grounds for ECFRPC to terminate this Agreement without further financial obligation to the COUNTY. In the event ECFRPC elects to terminate this Agreement during the initial ninety (90) days thereof for any other reason than the willful or negligent nonperformance by the COUNTY, it shall nevertheless be liable for the full amount of the monthly service fees of SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00), which amount



represents the total amount due for the first three months of the Agreement.

**SECTION 5. TERM OF AGREEMENT AND RENEWALS.** This Agreement shall have an initial term of twelve (12) months from the first day of the month immediately following the date of execution, unless the execution date shall be the first (1<sup>st</sup>) of the month, in which case the twelve (12) month initial term shall commence from that date. Thereafter, this Agreement can be renewed for an additional twelve (12) month period by mutual agreement between the Parties. The Parties shall notify each other in writing of their intentions regarding renewal or non-renewal no later than thirty (30) days prior to the end of the initial term of this Agreement or any then current renewal thereof.

If the notice of intention regarding renewal is given as provided herein, a decision by either or both Parties to not renew for any successive term shall not, in and of itself and without more, be deemed a breach of contract or give rise to any cause of action against the other Party. Notice may also be given by e-mail, facsimile transmission or telex provided that proof of transmission and receipt are maintained and available. Notices sent by Certified U.S. Mail will be deemed received three (3) days after mailing unless returned to sender.

**SECTION 6. TERMINATION.** Anything else in this Agreement to the contrary notwithstanding, this Agreement may be terminated at the sole discretion of the COUNTY if it determines that continued domiciling and administration of the Server proves to be incompatible with or an

undue burden upon the COUNTY's fiber optic or other information network systems or that it is no longer in the best interest of the COUNTY to continue under this Agreement. In such circumstances, the COUNTY shall give ECFRPC at least thirty (30) days notice of such intent to terminate and ECFRPC shall then have an additional sixty (60) days to relocate the Server with another service provider. If the COUNTY decides to terminate this Agreement for non-convenience in the manner provided herein, it shall refund to the ECFRPC the full amount of the TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) monthly service fees for the remaining term of this Agreement. The COUNTY shall have no other liabilities to the ECFRPC whatsoever.

**SECTION 7. CONTACT REPRESENTATIVES.** The Parties shall direct all correspondence and notices other than routine invoices to the attention of the persons identified below. The person named below shall be responsible for all material actions, oversight and coordination in the performance of this Agreement.

**For ECFRPC:**

Mr. Mark Sievers  
ECFRPC  
631 North Wymore Road, Suite 100  
Maitland, Florida 32751  
Tel: 407-623-1075  
Fax: 407-623-1084  
E-mail: sievers@ecfrpc.org

**For COUNTY:**

Ms. Kim Patterson, Information Services  
Seminole County Government  
1101 East First Street  
Sanford, Florida 32771  
Tel: 407-665-7326  
Fax: 407-665-7349  
E-mail: kpatters@co.seminole.fl.us

Each party reserves the right to designate other persons to be the point of contact by written, facsimile transmission or e-mail notice to the other ten (10) days prior to the desired date of substitution of personnel. If electronic, telex or facsimile notice is used, a record of confirmation of receipt of such transmission must be maintained. Notice to a Party shall be deemed received and effective in the same manner as the notice provision in Section 5 hereof.

**SECTION 8. INSURANCE REQUIREMENTS.** ECFRPC shall be responsible for maintaining adequate insurance coverage against claims by third persons arising from the use, misuse and/or reliability of the CPGIS Server. The COUNTY shall maintain adequate insurance coverage to protect its own interests and obligations under this Agreement.

**SECTION 9. LIABILITY AND INDEMNIFICATION.**

(a) Each party is responsible for all personal injury and property damages attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof.

(b) The parties further agree that nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available to such party under the laws of the State of Florida; the consent of the State of Florida or its agents and agencies to be sued; or a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

**SECTION 10. INDEPENDENT CONTRACTORS.** The Parties are independent contractors and are not employees or agents of each other. Nothing in

this Agreement shall be interpreted to establish any relationship other than that of an independent contractor between the Parties, their employees, agents, subcontractors, or assigns, during or after the performance of this Agreement.

**SECTION 11. ASSIGNMENT/THIRD PARTY BENEFICIARIES.**

(a) Neither the COUNTY nor ECFRPC shall assign, delegate, or otherwise transfer its rights and obligations hereunder to any other party without the prior written consent of the other Party.

(b) There are no third party beneficiaries to this Agreement. Any person or entity using the CFGIS system contemplated herein shall do so at his, her or its own risk.

**SECTION 12. UTILIZATION OF DOCUMENTS.** All documents, including user manuals and/or technical reports, which are necessary for the installation, maintenance, design limitations or operational requirements and for performance of the COUNTY's responsibilities under this Agreement shall, during the term of the Agreement, be provided to the COUNTY in written and/or digital form for use by the COUNTY. Such use may include, but shall not be limited to, reproduction, distribution and preparation of derivative works as necessary. These documents shall be stored by the COUNTY in the COUNTY's secured computer hardware facilities area described in Section 3(a) hereof with all such physical documents to be stored together on a marked shelf.

**SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT.** The parties shall assure that no person shall be excluded, on the grounds of race, color, creed, national origin, handicap, age, or sex, from participation in,

denied the benefits of, or be otherwise subjected to discrimination or sexual harassment in any activity pursuant to this Agreement.

**SECTION 14. GOVERNING LAW.**

(a) This Agreement shall be governed by and interpreted according to the laws of the State of Florida.

(b) The Parties and their employees, agents, vendors and assigns shall comply with all applicable Federal, State, and local laws, codes and regulations relating to the performance of this Agreement.

**SECTION 15. INTERPRETATIONS.** In the event any provision of this Agreement conflicts with, or appears to conflict with, the other terms of this Agreement including exhibits or attachments, hereto, if any, this Agreement shall be interpreted as a whole to resolve any inconsistency. The Parties agree to engage in positive and constructive communication to ensure that the positive collaboration of the Parties occurs.

**SECTION 16. FORCE MAJEURE.** Notwithstanding any provisions of this Agreement to the contrary, the Parties shall not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of Government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the Parties.

**SECTION 17. MODIFICATIONS, AMENDMENTS OR ALTERATIONS.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written

document executed with the same formality and of equal dignity herewith; provided, however, no formal amendment shall be required for mere changes or substitution of designated contact persons per Section 7 hereof.

**SECTION 18. SEVERABILITY.** Should any term of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provisions, or impair the enforcement rights of the Parties, their successors and assigns.

**SECTION 19. BINDING EFFECT.** Subject to the provisions of Section 11, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and the successors in interest, transferees and assigns of the Parties; provided, however, this Agreement shall not be deemed to pledge the full faith and credit of any Party.

**SECTION 20. PUBLIC RECORDS.** The Parties shall allow public access to all documents, papers, letters or other materials which have been made or received in conjunction with this Agreement, subject to exceptions to public records laws as set forth in the Florida Statutes and in accordance with records retention accomplished in accordance with State law.

**SECTION 21. RECORDS AND AUDITS.** The parties shall maintain in their place of business any and all books, documents, papers and other evidence pertaining to work performed pursuant to this Agreement. Such records shall be available at the regular place of business for each

party at all reasonable times during the term of this Agreement and for so long as such records are maintained.

**SECTION 22. CONFLICTS OF INTEREST.** The Parties agree that they will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the other party or which would violate or cause others to violate the provisions or Part III, Chapter 112, Florida Statutes, relating to ethics in government.

**SECTION 23. COMPLIANCE WITH LAWS AND REGULATIONS.** In performing under this Agreement, the Parties shall abide by all laws, statutes, codes, ordinances, rules, and regulations pertaining to, or regulating the performance set forth herein, including those now in effect and thereafter adopted. Any violation of said laws, statutes, codes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

**SECTION 24. DISPUTE RESOLUTION.** Any and all disputes arising hereunder shall be attempted to be resolved through a collaborative and mutually acceptable informal process with open discussions and a cooperative effort. In the event that formal dispute resolution processes become necessary, the Parties agree that such matters will be submitted to the Florida Growth Management Consortium for mediation.

**SECTION 25. CONSTRUCTION OF AGREEMENT.** This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel

for one of the Parties, it being recognized that each of the Parties have contributed substantially and materially to the preparation hereof.

**SECTION 26. HEADINGS.** All sections and descriptive headings in this Agreement are inserted for convenience only, and shall not affect the construction of interpretation hereof.


**SECTION 27. ENTIRE AGREEMENT.** This Agreement states the entire understanding between the Parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary.

**SECTION 28. EXHIBITS.** Exhibits to this Agreement, if any, shall be deemed to be incorporated into this Agreement as if fully set forth verbatim into the body of this Agreement.

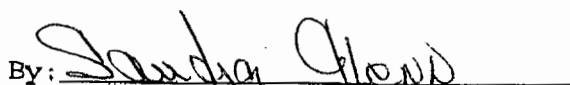
**SECTION 29. COUNTERPARTS.** This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

**IN WITNESS WHEREOF,** the parties have executed this Agreement on the dates set forth below.

ATTEST:

  
Greg Goligowski  
Deputy Executive Director

EAST CENTRAL FLORIDA REGIONAL  
PLANNING COUNCIL

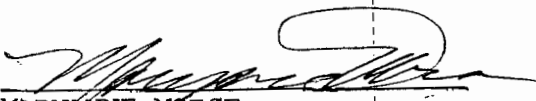
By:   
SANDRA GLENN  
Executive Director

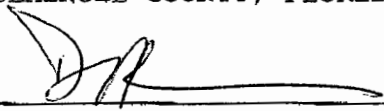
Date: 4-4-02



ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

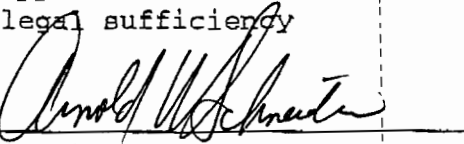
  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By:   
DARYL G. MCLAIN, Chairman

Date: 05/06/02

For the use and reliance  
of Seminole County only.  
Approved as to form and  
legal sufficiency

As authorized for execution by  
the Board of County Commission-  
ers at their 4-23,  
2002, regular meeting.

  
Asst. County Attorney

AS 3/21/02 4/2/02

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FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN  
SEMINOLE COUNTY, FLORIDA AND THE EAST CENTRAL FLORIDA  
REGIONAL PLANNING COUNCIL RELATIVE TO INSTALLATION AND  
MAINTENANCE RESPONSIBILITIES FOR THE CENTRAL FLORIDA  
GEOGRAPHIC INFORMATION SYSTEM

THIS FIRST AMENDMENT is made and executed this 22 day of  
Dec., 2004, by and between SEMINOLE COUNTY, a political  
subdivision of the State of Florida, whose address is Seminole County  
Services Building, 1101 East First Street, Sanford, Florida, 32771,  
hereinafter referred to as the "COUNTY," and THE EAST CENTRAL FLORIDA  
REGIONAL PLANNING COUNCIL, a regional planning council created  
pursuant to Chapter 186, Florida Statutes, whose address is 631 North  
Wymore Road, Suite 100, Maitland, Florida, 32751, hereinafter referred  
to as "ECFRPC" for the purpose of making certain changes to the  
Interlocal Agreement between the parties relative to the Central  
Florida Geographic Information System initiative.

W I T N E S S E T H:

WHEREAS, COUNTY and ECFRPC have heretofore entered into that  
certain Interlocal Agreement Relative To Installation And Maintenance  
Responsibilities For The Central Florida Geographic Information System  
dated May 6, 2002 (the "Agreement"); and

WHEREAS, COUNTY and ECFRPC are both desirous of continuing the  
relationship established by the Agreement on the same terms and  
conditions as provided therein without the need for formal, annual  
renewals of the Agreement as currently required by Section 5 thereof;  
and

WHEREAS, the Agreement's provisions regarding alternative dispute  
resolution as contained in Section 24 thereof are in need of updating

CERTIFIED COPY  
MARYANNE MORSE  
CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY, FLORIDA  
BY Eva Beach  
CLERK

to better accommodate dispute resolution flexibility and Chapter 164, Florida Statutes; and

**WHEREAS**, Section 220.115, Seminole County Code, requires the inclusion of certain language in all agreements with any party as to compliance with ethics in government standards which was inadvertently omitted in the Agreement and which needs to be incorporated by adoption of this First Amendment,

**NOW THEREFORE**, in consideration of the mutual covenants, terms, and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, COUNTY and ECFRPC hereby agree as follows:

**SECTION 1. RECITALS.** The foregoing recitations are true, correct, mutually understood, agreed upon, and form an integral part of this First Amendment.

**SECTION 2.** Section 5 of the Agreement is hereby amended to provide for its automatic continuance from year to year without formal amendment unless terminated by actions of either party. Section 5 shall henceforth read as follows:

**"SECTION 5. TERM OF AGREEMENT. AND RENEWALS.** ~~This Agreement shall have an initial term of twelve (12) months from the first day of the month immediately following the date of execution, unless the execution date shall be the first (1<sup>st</sup>) of the month, in which case the twelve (12) month initial term shall commence from that date. Thereafter, this Agreement can be renewed for an additional twelve (12) month period by mutual agreement between the Parties. The Parties shall notify each other in writing of their intentions~~

~~regarding renewal or non renewal no later than thirty (30) days prior to the end of the initial term of this Agreement or any then current renewal thereof.~~ This Agreement shall remain in full force and effect unless terminated by either or both Parties upon thirty (30) days written notice to the other Party in the manner as provided herein or unilaterally by the COUNTY pursuant to Section 6 hereof.

If the notice of ~~intention regarding renewal~~ termination is given as provided herein, ~~a decision by either or both Parties to not renew for any successive term~~ that event shall not, in and of itself and without more, be deemed a breach of contract or give rise to any cause of action against the other Party. Notice may also be given by e-mail, facsimile transmission, or telex provided that proof of transmission and receipt are maintained and available. Notices sent by Certified U.S. Mail will be deemed received three (3) days after mailing unless returned to sender."

**SECTION 3.** Section 24 of the Agreement is hereby amended to eliminate specific reference to utilization of the Florida Growth Management Consortium as the sole mediator for alternative dispute resolution and to allow the full range of flexibility afforded by Chapter 164, Florida Statutes. Accordingly, Section 24 shall henceforth read as follows:

**"SECTION 24. DISPUTE RESOLUTION.** Any and all disputes arising hereunder shall be attempted to be resolved through a collaborative and mutually acceptable informal process with open discussions and a cooperative effort. ~~In the event that formal dispute resolution processes become necessary, the Parties agree that such matters will be~~

~~submitted to the Florida Growth Management Consortium for mediation.~~  
Disputes shall be resolved in accordance with any dispute resolution  
agreements between the parties that may be in effect from time to time  
or pursuant to the provisions of Chapter 164, Florida Statutes,  
"Governmental Disputes". The Parties agree not to pursue litigation on  
any matter that is the subject of this Agreement until they have  
exhausted all good faith attempts at alternative dispute resolution."

**Section 4.** There is hereby added a new Section 30 to the Agreement to address compliance with the standards on ethics in government relating to matters of contract. It is understood by the Parties that this provision is required by Section 220.115, Seminole County Code to be in all agreements between COUNTY and any other private or public entity and that it was inadvertently omitted in the original Agreement. The new Section 30 shall read as follows:

"Section 30. ETHICAL CONDUCT OF THE PARTIES. Uses of any monies  
derived hereunder for giving of gratuities or kickbacks to COUNTY  
personnel, or for purposes which violate the ethics in government  
provisions of Chapter 112, Florida Statutes, or from using any monies  
derived under this Agreement for lobbying the Legislature in  
contravention of Section 216.347, Florida Statutes are expressly  
prohibited. Pursuant to Section 220.115, Seminole County Code, failure  
to comply with any of said provisions shall be grounds for unilateral  
termination of this Agreement by the non-offending party."

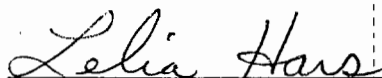
**Section 5.** All other provisions of the Agreement not expressly amended by this First Amendment shall remain in full force and effect as originally stated in the Agreement. The changes made by this First

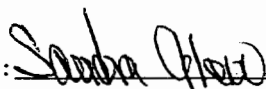
Amendment shall be deemed effective nunc pro tunc as of the effective date of the Agreement itself.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the dates set forth below.

ATTEST:

EAST CENTRAL FLORIDA REGIONAL  
PLANNING COUNCIL

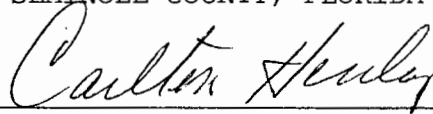
  
Lelia Hars  
OMB Director

By:   
SANDRA GLENN  
Executive Director

Date: 12/9/04

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

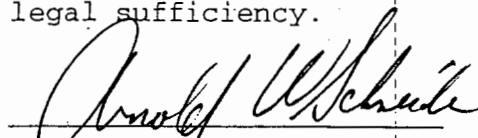
By:   
Chairman

Date: 12-22-04

For the use and reliance  
of Seminole County only.

As authorized for execution  
by the Board of County Commissioners  
at their Dec. 14, 2004  
regular meeting.

Approved as to form and  
legal sufficiency.

  
County Attorney